

2814-82

5 April 1982

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MEMORANDUM FOR: Chairman, National Intelligence Council

VIA: Acting Deputy Director for Intelligence
Director of Global IssuesFROM: [REDACTED]
Chief, Geography Division, OGI

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SUBJECT: Senior Interdepartmental Group Meeting on the Law of the
Sea [REDACTED]

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1. Action Requested: Agency participation in a Senior Interdepartmental Group (SIG) meeting on Law of the Sea (LOS) which is to be held in Room 7219 at the Department of State on 5 April 1982 at 1730 hours. The meeting, which will be chaired by James L. Buckley, Undersecretary of State for Security Assistance, Science and Technology, will review the current status of the negotiations and will discuss the Chairman of the LOS Delegation's assessment of the prospects for attaining the President's negotiating objectives (see attached papers). [REDACTED]

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2. Background: Following a year-long policy review the United States returned to the Third United Nations Conference on the Law of the Sea to seek changes in the seabed mining provisions of the Draft LOS Convention. The first four weeks of the two-month 11th Session now underway in New York have witnessed an eyeball-to-eyeball deadlock between the United States and the developing countries caucus in the UN, the Group of 77, over whether to modify the seabed text so as to make the LOS treaty universally attractive. [REDACTED]

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A US "book of amendments" has been generally supported by most of our allies but it was rejected by the G-77 as a basis for further negotiation. With the Session at an impasse and the Conference leadership struggling to find a negotiating procedure acceptable to the major blocs, a Group of 11 mid-sized industrial nations then drafted a slate of compromise proposals in an effort to bridge the gap between the widely divergent views of the United States and the Group of 77. Although the G-11 proposals do not meet all US objectives, they do represent a reasonable starting point for negotiations. [REDACTED]

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The US Delegation believes that, in view of the negotiating realities, it may not be possible to fulfill certain existing delegation instructions. The Chairman is optimistic, however, over the prospects for achieving the President's LOS objectives if the Delegation is granted some limited flexibility with respect to certain elements of the instructions and is authorized to make use of the Group of 11's initiative. [REDACTED]

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3. Agency Positions: Behind the positions of all agencies is the realization that increasing the flexibility of the US negotiators may produce a treaty which sweetens the Convention for our allies but does not come far enough to guarantee US Senate ratification, thus forcing the United States into assured isolation. The Departments of Interior and Treasury will likely take a hardline stance demanding that the negotiating instructions remain unchanged. Interior wants to foster and protect a US seabed mining industry; Treasury is leery of financial commitments for the Reagan and future administrations. Although DOD and Transportation may remain silent, as they are principally concerned with the navigation articles in Committee II of the Conference, they would like to see the mandatory technology transfer clauses softened to release industry from any obligation to pass sensitive defense-related technology to the proposed international mining organization, the Enterprise. The remaining agencies will, most likely, advocate increased negotiating flexibility.

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4. Recommendations: From an Agency viewpoint the Chairman of the Delegation's description of the current state of negotiating play at the Conference is accurate. Clearly the point has been reached where a decision must be made as to whether we should steadfastly stick to our tabled positions, and risk seeing a faulty final treaty evolve without us, or to adopt a more flexible stance and seek to continue the negotiations with the hope of improving the text to a point where it might be acceptable to the US Senate.

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Should you choose to indicate a preference for either granting more negotiating flexibility or maintaining the existing instructions, you should bear in mind that indeed the G-77 appears to be ready to negotiate, and possibly compromise on a number of key issues (substantiated by intelligence sources). This will substantially improve our chances of achieving a better comprehensive treaty. Should the final treaty still not be satisfactory to the US, the US could still withhold ratification, but the treaty would then be a somewhat better document for safeguarding overall US oceans interests.

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Attachment:
As stated.

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